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heard on a writ of error as on a demurrer by the defendant to the evidence.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 3441-3445; Dec. Dig. § 859.*]

2. Appeal and Error (§ 1008*)—Review—Findings.—Where a case is tried by the court, the judgment has the same effect as the verdict of a jury, and will not be disturbed, unless plainly against the evidence, or without evidence.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 3955-3969; Dec. Dig. § 1008.*]

3. Appeal and Error (§ 1046*)—Review—Rulings on Evidence—Prejudice.—A judgment on trial by the court will not be reversed for rulings in admitting or rejecting evidence, where the evidence other than that involved in the objections is amply sufficient to sustain the judgment.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 4128-4134; Dec. Dig. § 1046.*]

Appeal from Circuit Court of Norfolk.

Action by Preston S. Cotten against the Delaware, Lackawanna & Western Railroad Company. Judgment for plaintiff, and defendant appeals. Affirmed. (Cardwell, J., absent.)

J. W. Willcox and Morris, Garnett & Cotten, for appellant.
Williams & Tunstall, for appellee.

BOWE et al. v. SCOTT et al.

June 13, 1912.

[75 S. E. 123.]

1. Municipal Corporations (§ 697*)—Obstruction of Alley—Public Nuisance—Injunction—Special Damage.—Where plaintiffs owned real estate in a city which did not abut on the section of a public alley obstructed, under an ordinance authorizing the closing of the alley for 30 years, and had not suffered any special damage therefrom, they could not maintain a bill to enjoin the obstruction, it being a public nuisance, under the rule that an individual cannot maintain a bill to enjoin a public nuisance, unless he has suffered or will suffer therefrom special or peculiar damage to himself, as distinguished from injury to the general public.

[Ed. Note.—For other cases, see Municipal Corporations, Cent. Dig. §§ 1502-1505; Dec. Dig. § 697.*]

2. Pleading (§ 245*)—Amendment.—Where a demurrer had been

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

sustained to a bill, the court did not err in refusing an amendment stating facts which were known, or might have been known, to plaintiffs prior to the argument of the demurrer.

[Ed. Note.—For other cases, see Pleading, Cent. Dig. §§ 635, 653-675; Dec. Dig. § 245.*]

Appeal from Chancery Court of Richmond.

Action by N. W. Bowe and others, against Elizabeth S. Scott and others. From a decree sustaining demurrers to the bill, and overruling plaintiffs' motion to file an amended bill, and dissolving an injunction previously awarded, and dismissing the bill, plaintiffs appeal. Affirmed. (Keith, P. and Cardwell, J., absent.)

R. E. Byrd and David Meade White, for appellants.

Page & Leary, Braxton & Eggleston, Leake & Buford, and *H. R. Pollard*, for appellees.

BONOS *v.* FERRIES CO.

June 13, 1912.

[75 S. E. 126.]

1. Trial (§ 152*)—Demurrer to Evidence—Party Having Burden of Proof.—One, though having the burden of proof, may demur to the evidence; the question still being whether, after disregarding all his evidence in conflict with that of demurree, there remains enough to entitle him to judgment.

[Ed. Note.—For other cases, see Trial, Cent. Dig. § 349; Dec. Dig. § 152.*]

2. Trial (§ 154*)—Demurrer to Evidence.—The degree of particularity with which a demurrer to evidence must state the ground thereof depends on the character of the case, and it is enough that it fully advises demurree of demurrant's contention.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 351, 353; Dec. Dig. § 154.*]

3. Ferries (§ 17*)—Leases—Land Included.—A lease of ferries and all other property of the lessors now used, "or subject to be used," for the uses and purposes of said ferries, includes land liable to be used for ferry purposes, though not already actually so used.

[Ed. Note.—For other cases, see Ferries, Cent. Dig. § 41; Dec. Dig. § 17.*]

Error to Corporation Court of Norfolk.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.